

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO. 1576 OF 2005.**

Sarjerao Tanhaji Ghundare & ors.

... Appellants.

Versus.

Maruti Vitthal Ghundare & ors.

... Respondents.

Shri S.S,Deshmukh for the Appellants.

**CORAM : ABHAY S.OKA, J.
DATED : 14th MARCH, 2006.**

P.C.:

1. The Second Appeal is preferred by the legal representative of Defendant No.1. A decree for partition has been passed against the Appellants in the suit filed by the Respondent Nos.1 to 5.

2. Defendant No.1 resisted the suit on the ground that there was a prior partition effected in the year 1974. Reliance was placed on the written Applications made by the original Defendants Nos.1 and 2 and father of Respondent No.1 before the Tahsildar and before the authorities under the Urban Land Ceiling Act, 1976. However, the Appellate Court found that mutation entry was not made on the basis of the said Application. Both the Courts below after considering the oral and documentary evidence on record have recorded a finding of fact that the original Defendant No.1 could not establish that in the year 1974 there was a partition by metes and bounds. There are concurrent findings of fact on the issue of alleged partition effected in the year 1974. No interference is called for with the said concurrent findings of fact as the said findings are not shown to be perverse. Second Appeal is dismissed.

Judge.